

EPA Region 5 Records Ctr.



313617

From: Jim Veres
To: kboyman@elyriahealth.com
Date: 09/05/08 3:41 PM
Subject: Fire Site Info 9-5-08

CC: Bob Princic
Hello Commissioner Boylan,

As we discussed during our last telephone conversation on August 21, 2008, we have corresponded on numerous occasions with Mr. Peshek regarding his responsibilities to maintain the site and remediate it in accordance with applicable federal and State regulations. We have also taken additional samples on-site, which came back positive for asbestos and reinforced our position (contested by the owner) that the entire site must be treated as asbestos-containing waste material. Also at that time, you received a copy of an August 20, 2008, letter we sent to Mr. Peshek, giving him 10 working days to respond on any efforts he has taken to contract a company that will properly dispose of the asbestos-containing waste material (ACWM), and any measures he has taken to maintain the site.

We spoke with Mr. Peshek by phone on August 27, 2008, and he indicated that he had not yet picked up our letter. We urged him to do so, and to prepare a written response within ten working days after he received it. We again told him to include how he intended to remediate the site. His verbal response to us was that he had hired a consultant and he was going to send us a written proposal to decontaminate and remove the salvageable metal. He also alluded to us that he basically had no funds available to do anything beyond salvage of the metal, and mentioned going elsewhere to re-establish his business.

On September 3, 2008, we received the signed slip for the certified letter sent to Mr. Peshek. The receipt date of our August 20 letter was September 2, 2008, so his 10 working day clock for a response to us is up at the close of business on September 15, 2008.

In the meantime, Mr. Peshek has contacted his state representatives informing them that we are not allowing him to retrieve the metal from his property. We communicated to our Ohio EPA Legislative Liaison that DAPC/NEDO has been consistent in our message to Mr. Peshek since our initial July 8 meeting about his desire to remove the salvageable metal from the site. Per state and federal asbestos regulations, he has been told that he is permitted to remove it provided that he is able to conduct those activities without creating airborne releases during the removal activities, and also provided that he have provisions in place to transport and properly dispose all other non-salvageable, porous demolition materials that have been determined to be asbestos-containing waste materials. We told this to Mr. Peshek several times in our on-site inspections, in writing, and also in at least three telephone conversations.

Because the city has had concerns with the financial wherewithal and intentions of the owner to properly remediate the site, we had gotten involved in discussions with our Division of Emergency and Remedial Response/Voluntary Action Plan (DERR/VAP) representatives to determine whether the Clean Ohio fund (COF) or Brownfields could secure funding for this project. It appears that no funding is available.

Due to the fact that neither the owner nor the city has the funds to conduct a clean up of the site, you had stated an interest in formally seeking a health assessment be conducted on the site as a first step toward petitioning U.S. EPA to authorize a removal action. At your request, we spoke to Steve Johnson of ATSDR on August 20, 2008. ATSDR requested that we submit our analytical results, along with other documents. This information was sent to them on August 25, 2008.

Since August 27, at the direction of the Division of Air Pollution Control Central Office, we have temporarily ceased efforts to coordinate steps leading to, and including, a potential federal removal action among representatives of the city of Elyria, U. S. EPA Westlake office and ATSDR-Region V. Any further efforts toward that end, we were told, are to be coordinated through Paul Koval, Ohio EPA Division of Air Pollution Control Toxicology Supervisor. We have been instructed by Central Office to provide Mr. Peshek the 10 working days, as stated in our letter, to indicate whether or not he could, or would comply, with our requests. Currently, we must see if Mr. Peshek actually replies to our letter, and then proceed afterwards with further direction from our Central Office.

If you have any questions, please contact Mr. Bob Princic at 330-963 1230, or me at 330-963 1288.